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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,372	04/08/2004	Hassan Asadi	4452-639	7627
27799	7590	07/26/2005	EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,372

Applicant(s)

ASADI ET AL.

Examiner

Thomas J. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Acknowledgment is made in the receipt of the amendment filed May 19, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,454,455 to Kundmuller et al. in view of US 5,862,893 to Volpel.

Re-claim 1, Kundmuller et al. teach a piston cylinder assembly, comprising: a cylinder 3 with a working medium, the cylinder is fitted with a piston rod guide 11 having a radially inwardly extending projection 25 extending along a portion of a periphery of an inner wall of the cylinder; a piston rod 7 and a piston 9; a stop disk is mounted adjacent the piston, the piston rod is designed to tilt when impacting the projection, see figure 5. However, Kundmuller et al. fail

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to teach the stop disk as having an outer diameter greater than the piston, thereby resting against the projection before the piston contacts the projection.

Volpel teaches a piston cylinder assembly having a stop disc 142 with an outer diameter greater than an adjacent piston 144. The disc comes to rest against an internal projection of the inner wall of the cylinder. It would have been obvious to one of ordinary skill in the art to have replaced the stop disc provided with the piston cylinder assembly of Kundmuller et al. with a stop having an outer diameter greater than the adjacent piston as taught by Volpel, thus coming to rest against the projection before the piston, thereby eliminating potential damage to the piston during high thermal conditions. It is the opinion of the examiner that improved longevity for the piston cylinder assembly would have been realized by preventing potential stress damage to the piston during the tilting action brought on by high thermal conditions taught in Kundmuller et al.

Re-claim 2, the disc taught by Volpel is provided with non-throttling passages, 150.

Re-claim 3, the stop disc in Kundmuller et al. is a component of a piston valve.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kundmuller et al. in view of Volpel as applied to claim 1 above, and further in view of US 5,810,130 to McCandless.

Re-claims 4 and 5, Kundmuller et al. as modified by Volpel fail to teach an elastomeric tension stop positioned between the stop disk and the piston rod guide. McCandless teaches an elastomeric tension stop, or rubber bumper 37, positioned between the stop disc 39 and the rod guide. McCandless teaches that the bumper will lessen the full extension impact between the rod guide and piston assembly, see column 5 lines 59-61. It would have been obvious to one of ordinary skill in the art to have provided the assembly of Kundmuller et al. as modified by

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Volpel with an elastomeric tension stop as taught by McCandless, thus reducing impact force at full extension.

Response to Arguments

6. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached at 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

July 21, 2005

THOMAS WILLIAMS
PATENT EXAMINER

Thomas Williams

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7-21-05